

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1418 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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VINUBA WD/O GAMBHIRSINH HIRSINHJI & 5 - Appellant(s)

Versus

JASWANTSINH DAYALSINH LUBANA & 4 - Defendant(s)

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Appearance :

MR MC BHATT for Appellant(s) : 1 - 6.
MR PF MAKWANA for Defendant(s) : 1 - 2.
None for Defendant(s) : 3 - 4.
MR SV RAJU for Defendant(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 16/05/2008

ORAL JUDGMENT

1. Heard Mr. Raval for Mr. Bhatt for the appellant.
None appears for respondents nos. 1 to 4. Mr. SV

Raju appears for respondent no. 5.

2. The facts of the case are that deceased Gambhirsinhji Jadeja was a driver of truck bearing No. GRN 3886 belonging to one Sattarbhai Kasambhai and on 15.5.1986, he had gone to Bulsar and was returning from Bulsar to Modasa. Near Ashtagam, one another Truck No. DEL 297 was coming from the opposite direction and that driver drove that truck on a wrong side dashed with the truck bearing No. GRN-3886, as a result of which, the drivers of both the vehicles died on the spot. The Police case was made out against the driver of truck No. DEL-297. The deceased was getting pay of Rs. 800/-pm and was also doing agricultural work during spare time. The appellants are the widow, children and parent of the deceased and have filed claim petition for compensation against the opposite truck owner and Insurance Company and his truck owner and his Indusrance company.

3. Learned counsel for the appellant has only concentrated under the head of the future lose of income. He has not argued the appeal on any other count. Learned counsel for the appellant submitted that even if the income of deceased at Rs. 600/- is taken along with income of agricultural work, Rs. 900/- comes as monthly income of the deceased on the basis of the decision in the case of **U.P. Road Transport Corporation & Ors. v/s Trilok Chandra & Ors., reported in 1996(3) GLR p. 136.** It is further submitted that the Tribunal has wrongly awarded the

less amount and looking to the three minor children, the Tribunal ought to have gone on the unit basis and keeping in mind two units for wife of the deceased and one unit for each children and two unit for the deceased, the total unit comes to 8, and out of that, two units are required to be deducted. Hence, out of Rs. 900/-, Rs. 225/- is required for the deceased. The amount of Rs. 675/- comes as monthly dependency. Therefore, annual loss of dependency comes to Rs. 8100/- and multiplier of 12 is awarded, but looking to the age of the deceased, multiplier of 14 may be given. The multiplier of 14 is just, proper, therefore, future loss of income comes to Rs. 1,13,400/-.

4. In the result, this appeal partly allowed. The applicant is entitled to 1,13,400/- under the head of future loss of income, whereas, the Tribunal has awarded only Rs. 57,600/-, therefore, additional amount of Rs. 55,800/- is required to be awarded to the appellants with interest at the rate of 6% from the date of the application i.e. 2nd September, 1986.

(K.S. JHAVERI, J.)

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